



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/863,148

05/22/2001

John A.C. Woodley

6208-21

1065

27383 7590 12/30/2008

CLIFFORD CHANCE US LLP  
31 WEST 52ND STREET  
NEW YORK, NY 10019-6131

EXAMINER

GRAHAM, CLEMENT B

ART UNIT

PAPER NUMBER

3696

MAIL DATE

DELIVERY MODE

12/30/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/863,148	<b>Applicant(s)</b> WOODLEY, JOHN A.C.	
	<b>Examiner</b> Clement B. Graham	<b>Art Unit</b> 3696	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/3/08 has been entered.
2. Claims 1-55 remained pending.

### Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 24, 39 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claims 24, 39 is rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claims are narrative in form and replete with indefinite and functional or operational language example "engine, model, generator **"this should be define as hardware"** . The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claims) must be in one sentence form only. Note the format of the claims in the patents) cited.

### Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3696

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-55, are rejected under 35 U.S.C. 103(a) as being unpatentable Mosler et al (Hereinafter Mosler U.S Patent NO: 6, 304, 858) in view of Sloan et al (Hereinafter Sloan Pub: NO: 2003/0144936 A1).

As per claim 1, Mosler discloses a computer implemented method by which an entity manages an exposure to an economic risk associated with a commodity, comprising the steps of forming a model portfolio of said exposure said model representing cash flows; forming a hedging portfolio for said exposure said hedging portfolio representing cash flows, wherein at least of the steps is implemented with a computer (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

Mosler fails to explicitly teach periodically combining said cash flows of said model portfolio and said hedging portfolio and providing a payout based on said combined cash flows wherein at least one of the steps is implemented with a computer.

However Sloan discloses in a preferred embodiment of the present invention the Lifepath model may be the hub of the financial institution's relationship. The LifePath model provides data to all coaching engine allowing customized coaching output to be dispensed to the user based on his unique financial situation. The Lifepath model combines the pertinent financial information about a user in one coherent and comprehensive picture and models the user's life intentions into an aggregated cash flows system over a user selected period of time. Using the terminal the user inputs his life intentions in terms of projected income and expenses. The Lifepath model maintains an interactive dialog between the user and financial management system (see column 5 paragraph 0058 and 0063 and column 10 paragraph 0109 and column 6 table 1).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Mosler to include periodically combining said cash flows of said model portfolio and said hedging portfolio and providing a payout based on said combined cash flows wherein at least one of the steps is implemented with a computer taught by Sloan in order to manage portfolio of investment and in which an investor can limit the risk inherent in portfolio.

As per claim 2, Mosler discloses wherein the step of forming a model portfolio includes the step of forming a model portfolio of said exposure with actual contracts said hedging portfolio representing cash flows (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 3, Mosler discloses wherein the step of forming a model portfolio includes the step of forming a model portfolio of said exposure with proxy contracts (see column 2 para0013) said hedging portfolio representing cash flows (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 4, Mosler discloses wherein the step of forming a model portfolio includes the step of forming a model portfolio of said exposure with actual contracts and proxy contracts. (see column 2 para0013) said hedging portfolio representing cash flows (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 5, Mosler discloses wherein the step of forming a hedging portfolio includes the steps of receiving at least one hedging transaction executed by said entity; modeling said at least one hedging transaction (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 6, Mosler discloses wherein said step of forming a model portfolio comprises the step of having an institution record said exposure; and wherein the step of forming a hedging portfolio includes the step of: having said institution execute at least one hedging transaction (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 7, Mosler discloses wherein said step of recording includes the step of executing at least one transaction between said entity and said institution (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 8, Mosler discloses wherein said at least one transaction includes an actual transaction (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 9, Mosler discloses wherein said at least one transaction includes a proxy transaction (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 10, Mosler discloses further comprising the step of exchanging said combined cash flows between said entity and said institution (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 11, Mosler discloses wherein the step of exchanging said combined cash flows includes the steps of paying to said entity positive combined cash flows; and receiving from said entity negative combined cash flows (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 12, Mosler discloses wherein the step of exchanging said combined cash flows includes the step of having said institution retain any loss of cash flows resulting from a default (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 13, Mosler discloses wherein the step of exchanging said combined cash flows includes the step of having said institution retain at least a portion of any pooling profits (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 14, Mosler discloses further comprising the step of receiving a benchmark from said entity, said benchmark representing cash flows, and wherein the step of providing a payout based on said combined cash flows includes the step of providing a payout based on a difference between said combined cash flows and said benchmark cash flows (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 15, Mosler discloses wherein said step of providing a payout based on a difference between said combined cash flows and said benchmark cash flows includes the steps of providing a payment to said entity if said combined cash flows is less than said benchmark cash flows, and receiving a payment from said entity if said combined cash flows is greater than said benchmark cash flows (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 16, Mosler discloses wherein said payment is a percentage of said difference between said combined cash flows and said benchmark cash flows (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 17, Mosler discloses wherein said payment is provided if said difference between said combined cash flows and said benchmark cash flows is within a band (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 18, Mosler discloses wherein said payment is provided if said difference between said combined cash flows and said benchmark cash flows is outside a band (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 19, Mosler discloses wherein said model portfolio is periodically updated (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 20, Mosler discloses wherein said hedge is periodically updated (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 21, Mosler discloses wherein said cash flows of said model portfolio and said hedging portfolio are combined daily (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 22, Mosler discloses wherein said commodity is electricity (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 23, Mosler discloses wherein said commodity is selected from the group including natural gas, copper, zinc, interest rates, oil products, bandwidth and foreign exchange (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 24, Mosler discloses a computer implemented system by which an entity manages a portfolio of exposures to an economic risk associated with a commodity, comprising: a portfolio modeling computer implemented engine, said portfolio modeling engine receiving said portfolio of exposures from said entity and forming a model portfolio representing cash flows (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67). a hedging modeling computer implemented engine for receiving at least one hedging transaction, said hedging modeling engine forming a hedging portfolio representing cash flows based on said at least one hedging transaction and said model portfolio(see column 2 para0013) a tracking portfolio generator, said tracking portfolio computer implemented generator receiving said model portfolio and said hedging portfolio and combining said cash flows of said model portfolio and said hedging portfolio (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

Mosler fail to explicitly teach combining said cash flows of said model portfolio and said hedging portfolio and a payout manager, said payout manager providing a payout based on said combined cash flows .

However Sloan discloses in a preferred embodiment of the present invention the Lifepath model may be the hub of the financial institution's relationship. The LifePath model provides data to all coaching engine allowing customized coaching output to be dispensed to the user based on his unique financial situation. The Lifepath model combines the pertinent financial information about a user in one coherent and comprehensive picture and models the user's life intentions into an aggregated cash flows system over a user selected period of time. Using the terminal the user inputs his life intentions in terms of projected income and expenses. The Life path model maintains an interactive dialog between the user and financial management system. (see column 5 paragraph 0058 and 0063 and column 10 paragraph 0109 and column 6 table 1).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Mosler to include combining said cash flows of said model portfolio and said hedging portfolio and a payout manager, said payout manager providing a payout based on said combined cash flows taught by Sloan in order to manage portfolio of investment and in which an investor can limit the risk inherent in portfolio.

As per claim 25, Mosler discloses wherein said model is formed with actual contracts (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 26, Mosler discloses wherein said model is formed with proxy contracts (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 27, Mosler discloses wherein said model is formed with actual contracts and proxy contracts (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 28, Mosler discloses wherein said hedging modeling engine forms said hedging portfolio by receiving at least one hedging transaction executed by said entity and modeling said at least one hedging transaction (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 29, Mosler discloses wherein a benchmark is received from said entity, said benchmark representing cash flows and wherein said payout is based on a difference between said combined cash flows and said benchmark cash flows (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).



As per claim 30, Mosler discloses wherein said payout is a payment to said entity if said combined cash flows is less than said benchmark cash flows and said payout is a payment from said entity if said combined cash flows is greater than said benchmark cash flows (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 31, Mosler discloses wherein said payment is a percentage of said difference between said combined cash flows and said benchmark cash flows (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 32, Mosler discloses wherein said payment is provided if said difference between said combined cash flows and said benchmark cash flows is within a band (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 33, Mosler discloses wherein said payment is provided if said difference between said combined cash flows and said benchmark cash flows is outside a band (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 34, Mosler discloses wherein said model portfolio is periodically updated (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 35, Mosler discloses wherein said hedging portfolio is periodically updated (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 36, Mosler discloses wherein said cash flows of said model and said hedge are combined daily (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 37, Mosler discloses wherein said commodity is electricity (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 38, Mosler discloses wherein said commodity is selected from the group including natural gas, copper, zinc, interest rates, oil products, bandwidth and foreign exchange (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 39, Mosler discloses a computer implemented system by which an entity manages a portfolio of exposures to an economic risk associated with a commodity, comprising: a computer implemented transaction manager, said transaction manager executing at least one transaction between an institution and said entity, said at least one transaction forming a model portfolio representing cash flows (see column 6 lines 46-67 and column 7 lines 23-39 and

column 8-14 lines 1-67) a hedging computer implemented module for executing at least one hedging transaction, said at least one hedging transaction forming a hedging portfolio representing cash flows, a tracking portfolio computer implemented generator, said tracking portfolio generator receiving said model portfolio and said hedging portfolio (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

Mosler fail to explicitly teach and combining said cash flows of said model portfolio and said hedging computer implemented portfolio and payout manager, said payout manager providing a payout based on said combined cash flows.

However Sloan discloses in a preferred embodiment of the present invention the Lifepath model may be the hub of the financial institution's relationship. The LifePath model provides data to all coaching engine allowing customized coaching output to be dispensed to the user based on his unique financial situation. The Lifepath model combines the pertinent financial information about a user in one coherent and comprehensive picture and models the user's life intentions into an aggregated cash flows system over a user selected period of time. Using the terminal the user inputs his life intentions in terms of projected income and expenses. The Lifepath model maintains an interactive dialog between the user and financial management system. (see column 5 paragraph 0058 and 0063 and column 10 paragraph 0109 and column 6 table 1).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Mosler to include combining said cash flows of said model portfolio and said hedging portfolio and payout manager, said payout manager providing a payout based on said combined cash flows taught by Sloan in order to manage securities that are collateralized by mortgage obligations.

As per claim 40, Mosler discloses wherein said at least one transaction is an actual transaction (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 41, Mosler discloses wherein said at least one transaction is a proxy transaction (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 42, Mosler discloses wherein a benchmark is received from said entity, said benchmark representing cash flows and wherein said payout is based on a difference between

said combined cash flows and said benchmark cash flows (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 43, Mosler discloses wherein said payout is a payment to said entity if said combined cash flows is less than said benchmark cash flows and said payout is a payment from said entity if said combined cash flows is greater than said benchmark cash flows (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 44, Mosler discloses wherein said payment is a percentage of said difference between said combined cash flows and said benchmark cash flows (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 45, Mosler discloses wherein said payment is provided if said difference between said combined cash flows and said benchmark cash flows is within a band (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 46, Mosler discloses wherein said payment is provided if said difference between said combined cash flows and said benchmark cash flows is outside a band (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 47, Mosler discloses wherein said model portfolio is periodically updated (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 48, Mosler discloses wherein said hedging portfolio is periodically updated (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 49, Mosler discloses wherein said cash flows of said model and said hedge are combined daily (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 50, Mosler discloses further comprising a cash flow manager for exchanging said combined cash flows between said entity and said institution (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 51, Mosler discloses wherein said positive combined cash flows is paid to said entity and said negative combined cash flows is received from said entity (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 52, Mosler discloses wherein said institution retains any loss of cash flows resulting from a default (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 53, Mosler discloses said institution retains at least a portion of any pooling profits (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 54, Mosler discloses wherein said commodity is electricity (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

As per claim 55, Mosler discloses wherein said commodity is selected from the group including natural gas, copper, zinc, interest rates, oil products, bandwidth and foreign exchange (see column 6 lines 46-67 and column 7 lines 23-39 and column 8-14 lines 1-67).

### **Conclusion**

### **RESPONSE TO ARGUMENTS**

8. In response to Applicant's arguments filed 11/3/2008 has been fully considered but they are moot in view of new grounds of rejections.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B. Graham whose telephone number is 571-272-6795. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dixon can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3696

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Frantzy Poinvil/  
Primary Examiner, Art Unit 3696

CG

Dec 19, 2008